

# **LICENSING SUB-COMMITTEE**

18<sup>th</sup> July 2013

## **STREET TRADING CONSENT - APPLICATIONS**

Relevant Portfolio Holder	Councillor Kit Taylor
Relevant Head of Service	Head of Worcestershire Regulatory Services
Key Decision / Non-Key Decision	

### **1. SUMMARY OF PROPOSALS**

1.1 To consider applications made by 2 individual applicants requesting to trade from A491, Sandy Lane (M5 Junction 4) under the terms & conditions of the Local Government (Miscellaneous Provisions) Act 1982.

### **2. RECOMMENDATIONS**

2.1 Under section 9 of Bromsgrove Street Trading Policy it states that:

“Where more than one trader applies for consent to trade from an approved site, the applications will be referred to the council’s Licensing Sub-Committee”

2.2 The committee are asked to determine the application as whole or in part (with additional conditions, if appropriate)

provided that the Sub-Committee’s decision is consistent with the Council’s Street Trading Consent Policy.

### **3. BACKGROUND**

3.1 In accordance with the Street Trading Policy, a responsible authority is entitled to make representations. Responsible authorities include:-

- The Highways Authority – Worcestershire County Council;
- The Chief Officer of Police;
- Worcestershire Regulatory Services – Compliance Team;
- The Council’s Street Scene and Community Services Team;
- The Council’s Community Safety Team;
- Trading Standards;
- The Parish Council (if any) in which the Trading Unit is to be located;
- The Ward Councillors

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- Local businesses within the area (area not defined in the policy)

**4. KEY ISSUES**

- 4.1 The Licensing Authority has received 2 applications to conduct Street Trading, in accordance with the Street Trading Policy at the above 1.1 mentioned site.
- 4.2 Applicant 1, Mr Colin O’Coy is seeking to trade Monday to Saturday 07:30 – 15:30, selling hot & cold sandwiches, drinks & snacks. Mr O’Coy submitted his application on 23<sup>rd</sup> April 2013. Please see attached as Appendix 1.
- 4.3 Following consultation with responsible authorities, Worcestershire Regulatory Services (on Behalf of Bromsgrove District Council) received an objection from Environmental Health. Copy of the objection is attached as Appendix 2.
- 4.4 Applicant 2, Mr Vincent Richards is seeking to trade Monday to Friday 07:00 – 15:00. Selling hot & cold sandwiches, burgers, Hot & cold drinks. Mr Richards submitted his application on the 13<sup>th</sup> May 2013. Please see attached as Appendix 3.
- 4.5 A plan indicating the location of the proposed street trading site is attached at Appendix 4
- 4.6 Bromsgrove District Council Street Trading Consent policy attached as Appendix 5.

**5. FINANCIAL IMPLICATIONS**

- 5.1 Fees paid in regards to Street trading consent will be refunded minus £35.00 administration charge.

**6. LEGAL IMPLICATIONS**

- 6.1 The Local Government Miscellaneous Provisions Act 1982 section 3 empowers local authorities to designate all or part of their areas for the purposes of street trading. Schedule 4 of that Act specifies the procedure for resolving to designate streets, and for issuing Street Trading Consents.
- 6.2 “Schedule 4 section 7(4) of the Act permits the Council to grant a Street Trading Consent if they think fit and when granting or renewing a Street

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Trading Consent the Council may attach such conditions to it as they consider reasonably necessary. Paragraph 7 (5) without prejudice to the generality of (4), the conditions that may be attached to a Street Trading consent by virtue of that sub-paragraph include conditions to prevent- (a) obstructions of the street or danger to persons using it; or (b) nuisance or annoyance (whether to persons using the street or otherwise). The Council may at any time vary the conditions of a Street Trading Consent.”

- 6.3 Paragraph 8 of Schedule 4 of the Act, further permits the Council to include in Street Trading Consent permission for its holder to trade in Consent Street from a stationary van, cart, barrow or other vehicle or from a portable stall.
- 6.4 Paragraph 10 of Schedule 4 of the Act states that a Street Trading Consent may be granted for any period not exceeding 12 months, but may be revoked at any time.
- 6.5 There is no right of appeal against the refusal to grant a Street Trading Consent.
- 6.6 The Sub-Committee must have regard to the Street Trading Consent Policy adopted by Bromsgrove District Council on 20th January 2010.
- 6.7 The Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights.

**7. POLICY IMPLICATIONS**

- 7.1 The Sub-Committee must have regard to the Street Trading Consent Policy adopted by Bromsgrove District Council on 20<sup>th</sup> January 2010, as amended in June 2012.

**8. COUNCIL OBJECTIVES**

- 8.1 CO1 – Regeneration, Priority Economic Development

**9. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS**

- 9.1 The main risk associated with the details included in this report are:
  - Decision made without having regard to Council Policy.

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9.2 This risk is being managed as follows:

- Adhere to all licensing policies and legislation when determining applications for all licensing functions.
- Risk Register: Planning and Environment Services
- Key Objective Ref No. 8

**10. CUSTOMER IMPLICATIONS**

10.1 All parties will be notified of the Council's decision in writing.

**11. EQUALITIES AND DIVERSITY IMPLICATIONS**

11.1 All applicants are dealt with on their own individual merits are accepted in line with legislation and Council Policy.

**12. VALUE FOR MONEY IMPLICATIONS, PROCUREMENT AND ASSET MANAGEMENT**

12.1 None.

**13. CLIMATE CHANGE, CARBON IMPLICATIONS AND BIODIVERSITY**

13.1 None.

**14. HUMAN RESOURCES IMPLICATIONS**

14.1 None

**15. GOVERNANCE/PERFORMANCE MANAGEMENT IMPLICATIONS**

15.1 None

**16. COMMUNITY SAFETY IMPLICATIONS INCLUDING SECTION 17 OF CRIME AND DISORDER ACT 1998**

16.1 None

**17. HEALTH INEQUALITIES IMPLICATIONS**

17.1 None

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**18. LESSONS LEARNT**

18.1 None

**19. COMMUNITY AND STAKEHOLDER ENGAGEMENT**

19.1 None

**20. OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	Yes
Chief Executive	No
Executive Director (S151 Officer)	No
Executive Director – Leisure, Cultural, Environmental and Community Services	No
Executive Director – Planning & Regeneration, Regulatory and Housing Services	No
Director of Policy, Performance and Partnerships	No
Head of Service	Yes
Head of Resources	No
Head of Legal, Equalities & Democratic Services	No
Corporate Procurement Team	No

**21. WARDS AFFECTED**

This report affects the Ward of Waseley

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**22. APPENDICES**

- Appendix 1 – Application Mr O’Coy
- Appendix 2 – Letter or Representation from responsible authority
- Appendix 3 – Application Vincent Richards
- Appendix 4 - Location plan of the proposed site
- Appendix 5 – Bromsgrove District Council Street Trading Policy

**23. BACKGROUND PAPERS**

Street Trading Policy

**AUTHOR OF REPORT**

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